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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/719,785

11/21/2003

Edward Paul Carlin

9432

2937

27752

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04/13/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

HAND, MELANIE JO

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,785

Applicant(s)

CARLIN, EDWARD PAUL

Examiner

Melanie J. Hand

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/2/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed February 1, 2006 have been fully considered but they are not persuasive. With respect to applicant's argument that the grooves taught by Schoelling do not possess widths and thus also do not possess differing widths x and y on opposing longitudinal ends of the tampon, Examiner disagrees and cites the following teaching of Schoelling also cited by applicant:

"...the longitudinal grooves 42 form in each case eight closed spiral guide ducts 50(FIG. 4) which are in each case preferably open only at the insertion end 32 and at the recovery end 34 (the openings at the insertion end 32 are visible in FIG. 3). These guide ducts 50 each have a drop-shaped cross section which is largest at the fiber core 38 and tapers radially outwardly to the place in which the adjacent longitudinal ribs 40 lie against one another with the radially outer ends of their side flanks 44." (¶ 0039)

The grooves 42 exist, therefore they have a width dimension that separates adjacent ribs.

Regardless of the fact that the dimension appears to be infinitesimally small, the dimension exists, and since the grooves 42 form ducts 50, which are tear-shaped at the insertion end of the tampon, Schoelling clearly teaches that the ducts 50 have varying widths at one end of the tampon versus the opposing end. Applicant cites this teaching as proving the opposite, however Examiner also disagrees with this interpretation by applicant, and refers applicant to the underlined emphasis added by Examiner to the citation above and, in addition, to the remainder of paragraph 0039, wherein Schoelling teaches that ducts 50 convey fluid from the insertion end to the absorbent core.

Terminal Disclaimer

The terminal disclaimer filed on February 1, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on Application No. 10/719,258 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on February 2, 2006 was filed after the mailing date of the Application on November 21, 2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4 and 6-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Schoelling ('859).

With respect to **Claims 1-3**: Schoelling discloses a tampon made of compressed fibrous material with an insertion end, a recovery end, a longitudinal axis, and an outer surface with longitudinal grooves and it is shown in Figure 1, that the surface grooves (recesses) approaching the insertion end define a width x closest to tip of the tampon, and a width y (smaller than x) as the width of the grooves decreases. (¶ 0009)

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With respect to **Claims 4,6**: The surfaces, grooves or ribs taught by Schoelling are in a spirally shaped pattern. (Fig. 1, ¶ 0009) The tampon taught by Schoelling can either have a uniform density over a cross-section or ribs that extend radially outward from a centrally disposed absorbent core, producing a cross-section that exhibits a varying density.

With respect to **Claims 7-9**: Schoelling teaches a highly compressed core 38 (¶ 0037).

With respect to **Claims 10,11**: Schoelling teaches recovery tape 35 (Fig. 1), as well as a finger indent on the recovery end of the tampon (¶ 0040).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schoelling US 2002/0151859 in view of Leutwyler et al. (591 1712).

With respect to **Claim 5**: Schoelling does not teach recesses that are parallel to the longitudinal axis. Leutwyler discloses in Figure 1 longitudinal recesses that are parallel to the longitudinal axis. It would have been obvious to one skilled in the art to compose the tampon taught by Schoelling with recesses parallel to the longitudinal axis as taught by Leutwyler to assist the flow-direction of the fluid transported onto the tampon via the user, creating a leak preventing, absorbent environment.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', with a long, sweeping horizontal stroke extending to the right.